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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

## OAKLAND DIVISION

23 ORACLE USA, INC., *et al.*,  
24 Plaintiffs,  
25 v.  
26 SAP AG, *et al.*,  
27 Defendants.

No. 07-CV-01658 PJH (EDL)

**JOINT STATUS REPORT RE  
JANUARY 26, 2010 HEARING RE  
PLAINTIFFS' MOTION TO  
COMPEL AND TO MODIFY  
PROTECTIVE ORDER**

1                   As the Court ordered at the January 26, 2010 hearing on the Parties' motions to  
2 compel, the Parties have met and conferred regarding Defendants' supplemental responses to  
3 Oracle's Requests for Admission ("Requests") that were the subject of Oracle's motion – three  
4 times telephonically and also by exchange of letters. The Parties submit this status report of  
5 those discussions, as ordered by the Court.

6                   The Parties have made progress on some issues, and Defendants have agreed to  
7 provide Oracle with sample intended response language for a number of open items by Monday,  
8 February 8 which may resolve some of the existing open issues. However, as of now, the Parties  
9 still have some fundamental disagreements about the effect of the Court's guidance provided at  
10 the hearing. Accordingly, the Parties jointly seek leave from the Court to submit, next week,  
11 either a joint letter setting forth the Parties' respective positions, or expedited briefs, according to  
12 the Court's preference, and based on the transcript of the hearing. Both Parties prefer that the  
13 Court decide any remaining disputes as soon as reasonably possible so that Defendants can  
14 complete and serve their supplemental responses, and in order to minimize the possibility of  
15 further motion practice subsequent to those supplemental responses. The Parties are available  
16 for a call with the Court, if desired, to discuss the logistics of any submission.

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2 DATED: February 5, 2010

BINGHAM McCUTCHEN LLP

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By: \_\_\_\_\_ /s/

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Geoffrey M. Howard  
Attorneys for Plaintiffs  
Oracle USA, Inc., Oracle International  
Corporation, and Oracle EMEA, Ltd.

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In accordance with General Order No. 45, Rule X, the above signatory attests that  
concurrence in the filing of this document has been obtained from the signatory below.

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7

JONES DAY

8

DATED: February 5, 2010

9

10 By: \_\_\_\_\_ /s/

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12 Scott W. Cowan  
13 Attorneys for Defendants  
14 SAP AG, SAP America, Inc.,  
15 and TomorrowNow, Inc.

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